

S/N 09/606,896

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	VanFlandern et al.	Examiner:	Mary C. Baran
Serial No.:	09/606,896	Group Art Unit:	2857
Filed:	June 29, 2000	Docket No.:	154646.1/40062.69US03
Customer No.:	23552	Confirmation No.:	7655
Title:	Performance Markets to Measure Benchmark Timing of a Plurality of Standard Features in an Application Program		

CERTIFICATE UNDER 37 CFR 1.6(d):

The undersigned hereby certifies that this correspondence is being transmitted via facsimile to: Commissioner for Patents, Attention: Examiner Mary C. Baran, P.O. Box 1450, Alexandria, VA 22313-1450 on January 13, 2004.

By:

Patricia L. Larrimore

Name: Patricia L. Larrimore

**TERMINAL DISCLAIMER TO OBLIATE A PROVISIONAL
DOUBLE PATENTING REJECTION OVER A PENDING SECOND APPLICATION**

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

Petitioner, Microsoft Corporation, a corporation organized and existing under the laws of the State of Washington and having its primary place of business at One Microsoft Way, Redmond, Washington 98052, represents that it is the owner of the entire right, title and interest in U.S. Patent Application Serial No. 09/606,896, filed on June 29, 2000 and entitled "PERFORMANCE MARKERS TO MEASURE BENCHMARK TIMING OF A PLURALITY OF STANDARD FEATURES IN AN APPLICATION PROGRAM" ("present application"), by virtue of the assignment recorded at Reel 011291, Frame 0028.

Petitioner, Microsoft Corporation, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term as shortened by any terminal disclaimer filed prior to the grant of any patent granted from pending second U.S. Patent Application Serial No. 09/606,925, filed on June 29, 2000, and entitled "PERFORMANCE MARKERS TO MEASURE BENCHMARK TIMING OF FEATURES IN

A PROGRAM" ("second application"), and hereby agrees that any patent so granted on the present application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to any patent granted on the second application, this agreement to run with any patent granted on the present application and to be binding upon the grantee, its successors, or assigns.

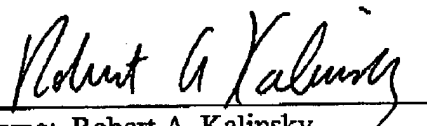
In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the present application that would extend to the full statutory term as shortened by any terminal disclaimer filed prior to the patent grant on the second application, in the event that any such issued patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

Please charge the fee of \$110.00 under 37 CFR 1.20(d) associated with the terminal disclaimer to Deposit Account No. 13-2725.

The undersigned is an attorney of record.

Respectfully submitted,
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Date: January 13, 2004


Name: Robert A. Kalinsky
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RAK:pll

THE STATEMENT BELOW IS FOR OFFICE USE ONLY

In accordance with the decision granting the petition filed on _____, _____, this terminal disclaimer is accepted. The period of patent lapse specified above has been accepted as equivalent to _____ months.

Petitions Examiner